BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF HAWAII

In the Matter of PUBLIC UTILITIES COMMISSION Instituting a Proceeding to Investigate Distributed Generation in Hawaii.	DOCKET NO. 03-0371

COUNTY OF MAUI'S RESPONSE TO HAWAIIAN ELECTRIC COMPANY, HAWAII ELECTRIC LIGHT COMPANY, AND MAUI ELECTRIC COMPANY'S MOTION FOR CLARIFICATION AND/OR PARTIAL RECONSIDERATION OF DECISION AND ORDER NO. 22248

AND

CERTIFICATE OF SERVICE

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Pursuant to Order No. 1 of the Commission's Order No. 22310, the County of Maui ("COM") respectfully submits its response to the motion for clarification filed by Hawaiian Electric Company, Hawaii Electric Light Company, and Maui Electric Company (collectively referred to as "HECO"). Our responses correspond to the numbering system used in HECO's Motion.

I.A. DG Resolves a Legitimate System Need

The County of Maui agrees with HECO that the Commission should define "legitimate system need" and we recommend the following definition: "a legitimate system need is met when a distributed generation system provides 50% or more of its power output in kilowatt-hours for public utility use."[1] We make this recommendation because distributed generation ("DG") can be developed for public utility uses or for private consumer uses and

[1] "Public utility" is defined in Hawaii Revised Statutes Section 269-1.

that should distinguish whether the utility should own DG directly, or indirectly through an affiliate. Hawaii Revised Statutes ("HRS") Section 269-6 authorizes the Commission to regulate public utilities and their public services and prices, therefore, the Commission may allow the utility to own DG systems and any other equipment used to provide price regulated public utility services. However, HRS Section 269-6 does not authorize the Commission to regulate companies providing private consumer services,[2] therefore, the Commission can only allow a utility affiliate to develop and own DG in the unregulated private consumer services market. Accordingly, the public utility use criterion and the 50% power output criterion in the COM's recommended definition are reasonable thresholds, from a regulatory perspective, for determining whether a "legitimate system need" is met.

The Commission's Decision and Order No. 22248 addresses the difference in providing DG power for public utility versus for private consumer uses by allowing utilities to provide DG power either directly or through a utility affiliate. Our clarification of "legitimate system need" is consistent with said Decision and Order.

HECO's proposed definition of "legitimate system need" is not appropriate because the five system needs that HECO identified in its motion are legitimate needs from the utility system

[2] COM-T-1, pp. 8-9

perspective.[3] The COM recommends that the system needs should be identified from a regulatory perspective, as the COM provided above.

I.B. DG Proposed by the Utility is the Least Cost Alternative to Meet that Need

HECO's requested clarification that "least cost" should mean "lowest reasonable cost" is acceptable and consistent with the Commission's Order No. 3, whereby utility owned DG is subject to the same scrutiny as other resources in the IRP process.

I.C. Fair Opportunity for Non-Regulated DG Providers

If the Commission adopts the COM's definition as to what constitutes a "legitimate system need," then this criterion would not be necessary. In situations where DG provides power for a price regulated public utility service, the utility would procure the DG as it would any other supply or demand-side resource, so the subject criterion would be unnecessary. In situations where DG provides power for a private consumer service, competition could take place with a utility affiliate competing against other energy service providers for business, thereby also making the subject criterion unnecessary.

If the Commission does not adopt the COM's definition as to what constitutes a "legitimate system need," then the COM supports maintaining this criterion.

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[3] HECO Motion for Clarification, p.4, line 1

The COM believes that our above recommendations also address HECO's other requests for clarifications/reconsiderations, as follows:

1. <u>DG Peaking Units</u>

By applying the COM's definition of "legitimate system need" to this situation, HECO would be allowed to own DG peaking units if they are primarily used to provide utility peaking power or other public utility services, as would be the situation, and if those units are found to be a lowest reasonable cost resource option in the IRP process.

2. <u>Lanai CHP</u>

The COM feels that there is no exceptional reason why CHP on Lanai should be treated any differently than CHP located anywhere else in Maui County or the State and we recommend that the provisions of D&O 22248 should apply to the subject Lanai situation. We further recommend that MECO should be directed not to seek approval of its Lanai CHP proposal through a special Rule 4 application. Instead, the COM recommends that the Commission direct Maui Electric Company to conduct and IRP evaluation of all CHP and DG resource options for Lanai in a manner that can serve as a model for other island grid systems. Lanai's small and relatively simple grid system represents the best opportunity in this state to evaluate the specific costs and benefits of CHP and other DG resources and to plan for DG integration with the grid. The IRP evaluation should including all resource alternatives, including non-utility DG ownership options and smart grid technologies. We make this recommendation because there seems to be a perception that non-utility DG would adversely affect Lanai's ratepayers.[4] DG can be implemented by non-utility entities in either a good or harmful manner, but the good aspects of a non-utility entity developing DG on Lanai do not appear to have been adequately represented in the Docket No. 03-0261 and we anticipate that a more balanced and thorough evaluation will be conducted in the IRP process.

II.A. <u>Utility Ownership of PV on Customer Sites</u>

By applying the COM's definition of "legitimate system need" to this situation, HECO would be allowed to own customer-sited PV systems if the PV systems provide its power directly to the grid, instead of providing its power to the private consumer. This can be accomplished by setting up the PV systems like the PV system mounted on the County of Hawaii's gymnasium in Kona. There, the PV system is installed on the utility's side of the meter, with all of the power going to the grid, which is a public utility use. The County of Hawaii does not net meter the PV energy, nor receive any PV power directly from the PV system (although the grid-delivered power inevitably does consist of the PV system's power output).

The COM does not object to HECO's proposal to purchase existing PV systems, provided that the systems are configured to

[4] HECO's Motion for Clarification, p. 9, "Nonetheless, D&O 20811 recognizes the harmful impacts to MECO's Lanai ratepayers that would occur if C&C Resorts were to self-generate or otherwise implement non-utility DG."

provide public utility services. However, the COM questions HECO's statement that "(u)tility buy-out of existing PV systems could facilitate a larger overall PV market . . ." We believe that addressing the up-front cost of PV with utility rebates or other incentives would do more for facilitating a larger overall PV market than addressing resale options for existing PV systems.

II.B. Applicability of Standby Rates to Renewable DG

We agree with HECO in concept.

III.B. Further Distinctions Should Be Made Between the Types of DG Application

If the COM's definition of "legitimate system need" were applied to the dispatchable standby generator situation, HECO would be able to own and procure dispatchable standby generators because the generators would be used for public utility purposes.

III.D. Utility Dispatch of Customer-Owned CHP is Unlikely

We disagree with HECO that utility dispatch of customer-owned CHP is unlikely because HECO is taking a very narrow and traditional view of dispatching CHP. The COM maintains that plug-in hybrid electric vehicles could in the future be used in vehicle-to-grid applications[5] and referenced a study[6] that explained how vehicles could be dispatched to provide non-traditional utility services, such as spinning reserves and regulation reserves. The COM believes that with some time, resources, and creativity, HECO could also dispatch CHP, plug-in hybrid electric vehicles, standby

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[5] COM-T-1, p. 4

[6] COM-T-1, footnote 2, p. 4

generators, and other "intelligent" DSM resources, through an "intelligent" grid or "Energy Internet,"[7] to provide spinning reserves, regulation reserves, reserve margin, peaking power, and other public utility power resources.

IV.B. Customer Choice and DG Competition

We believe that the Commission did a commendable job of addressing customer choice and DG competition issues. With the adoption of the COM's definition of "legitimate system need," the Commission would establish a solid regulatory basis for the growth of the emerging distributed generation and distributed energy services industry.

COM notes that the Commission has provided HECO with two opportunities to participate in the DG market, either directly, when appropriate, or through an affiliate company. No market opportunities have been excluded from HECO. The Commission has not limited HECO from competing in the DG market, but rather, it appears that HECO is limiting itself by declining to voluntarily compete through an affiliate.[8] We agree with the Commission's finding that "(a)llowing the utility to provide distributed generation on a customer's site also may shift the risks and expenses of this new business onto the utility's captive ratepayers and away from the customers it is trying to attract." We would add

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[7] Com-T-1, p.5

[8] Bonnet Testimony, Transcripts, Volume II, pp. 33-34: "If we were so directed by the commission to take on that role and establish that framework, we would certainly do so. We would not seek it out."

that it would also shift the risks and expenses away from its shareholders. The risks and expenses of a DG business serving the private consumer market is properly placed with HECO's shareholders and the private customers and not with HECO's captive ratepayers.

DATED: Wailuku, Maui, Hawaii, March 23, 2006.

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I hereby certify that copies of the foregoing document were duly served upon the following by electronic mail and by United States mail, postage prepaid, on March 24, 2006, addressed as follows:

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